

## **REMARKS**

Upon entry of this amendment, claims 1, 3 and 6-13 are all the claims pending in the application. Claims 2, 4 and 5 have been canceled by this amendment.

Applicants note that a number of editorial amendments have been made to the specification for grammatical and general readability purposes. No new matter has been added.

### **I. Claim Rejections under 35 U.S.C. § 103(a)**

Claims 1-13 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Nishi (US 6,681,395) in view of Tsuji et al. (US 2003/0065957) and Bonomi et al. (US 6,769,127).

By this amendment, Applicants note that claim 1 has been amended to include the features previously recited in claim 2, and claim 2 has been canceled. Accordingly, claim 1 now recites the features of a first storage unit operable to store a first application program for reproducing the content in a members-only operation mode; a second storage unit operable to store a second application program for reproducing the content in a non-member operation mode; and a selection unit operable to select one of the first application program and the second application program in accordance with the setting result.

Applicants respectfully submit that the cited prior art references do not teach, suggest or otherwise render obvious at least the above-noted combination of features recited in amended claim 1.

For example, with respect to the feature of a first storage unit operable to store a first application program for reproducing the content in a members-only operation mode, Applicants

note that in the Office Action, the Examiner has stated that Nishi discloses the use of an IC card containing membership information which is inserted into a subscriber terminal, and therefore, that Nishi discloses the claimed “first storage unit” (see Office Action at pages 3-4). Applicants respectfully disagree.

In particular, based on the Examiner’s above-noted comments regarding Nishi, it appears as though the Examiner is taking the position that the “membership information” that is stored in the IC card of Nishi corresponds to “a first application program for reproducing the content in a members-only operation mode”. With respect to such a position, Applicants note that the while the “membership information” of Nishi is disclosed as being information such as the channels that the user subscribes to, keys for use in decoding such subscribed channels, and personal information of the user, that such information is clearly not an application program for reproducing content in a particular mode.

Accordingly, contrary to the position taken in the Office Action, Applicants respectfully submit that Nishi does not disclose, suggest or otherwise render obvious the above-noted feature recited in claim 1 of a first storage unit operable to store a first application program for reproducing the content in a members-only operation mode.

In addition, with respect to the above-noted feature recited in claim 1 of a second storage unit operable to store a second application program for reproducing the content in a non-member operation mode, Applicants note that in the Office Action, the Examiner has stated that Bonomi discloses that a program guide is downloaded to the client machine, which would require a storage unit to hold the program guide, and therefore, that Bonomi discloses the claimed “second storage unit” (see Office Action at page 4). Applicants respectfully disagree.

In particular, based on the Examiner's above-noted comments regarding Bonomi, it appears as though the Examiner is taking the position that the "program guide" of Bonomi corresponds to "a second application program for reproducing the content in a non-member operation mode".

With respect to such a position, Applicants note that the "program guide" of Bonomi lists all of the channels being serviced by the media delivery center, wherein the program guide can be customized and is delivered from the media delivery center to a particular user (see Fig. 1B; and col. 18, lines 26-42 and lines 58-67). Thus, Applicants note that because the program guide of Bonomi is merely data that is delivered from the media delivery center to a user which lists channels that are being serviced by the media delivery center, that such a program guide is clearly not an application program for reproducing content in a particular mode.

Accordingly, contrary to the position taken in the Office Action, Applicants respectfully submit that Bonomi does not disclose, suggest or otherwise render obvious the above-noted feature recited in claim 1 of a second storage unit operable to store a second application program for reproducing the content in a non-member operation mode.

Further, with respect to the above-noted feature recited in claim 1 of a selection unit operable to select one of the first application program and the second application program in accordance with the setting result, Applicants note that in the Office Action, the Examiner has stated that "one of ordinary skill in the art would recognize that the reproduction unit [of Bonomi] would have a selection unit to make a determination as to whether the user is a subscriber of premium channels so that the program guide can be adjusted accordingly" (see Office Action at page 4).

With respect to this statement made by the Examiner, Applicants respectfully submit that the Examiner is mischaracterizing the claim language. In particular, Applicants note that the mere ability to determine whether a user of Bonomi is a subscriber of premium channels does not in any way whatsoever correspond to the language recited in claim 1 which sets forth that the selection unit is operable to select one of the first application program and the second application program. In other words, Applicants submit that the mere determination in Bonomi as to whether or not a user is a subscriber does not require a selection of one of a first application program and a second application program, but instead, merely requires that the program guide be updated accordingly.

In view of the foregoing, Applicants respectfully submit that the cited prior art references do not disclose, suggest or otherwise render obvious the above-noted features recited in claim 1 of a first storage unit operable to store a first application program for reproducing the content in a members-only operation mode; a second storage unit operable to store a second application program for reproducing the content in a non-member operation mode; and a selection unit operable to select one of the first application program and the second application program in accordance with the setting result. Accordingly, Applicants submit that claim 1 is patentable over the cited prior art, an indication of which is kindly requested.

If the Examiner maintains the above-noted rejection of claim 1, Applicants kindly request that the Examiner explicitly identify the elements of Nishi and Bonomi that are being relied upon as corresponding to the claimed “first application program” and “second application program” so that Applicants can make an informed decision with regard to appeal.

Regarding claims 3 and 7-11, Applicants note that these claims depend from claim 1 and are therefore considered patentable at least by virtue of their dependency.

Regarding claim 6, Applicants note that this claim has been rewritten in independent form and includes the features of a first storage unit operable to store a first application program for reproducing the content in a members-only operation mode; a second storage unit operable to store a second application program for reproducing the content in a non-member operation mode; and a selection unit operable to select one of the first application program and the second application program in accordance with the setting result.

For at least similar reasons as discussed above with respect to claim 1, Applicants respectfully submit that the cited prior art references do not teach, suggest or otherwise render obvious the above-noted features recited in claim 6. Accordingly, Applicants submit that claim 6 is patentable over the cited prior art, an indication of which is kindly requested.

Regarding claim 12, Applicants note that this claim has been amended so as to be drawn to a content reproduction method used by a content reproduction terminal comprising a terminal body that stores a first application program for reproducing content in a members-only operation mode and a second application program for reproducing the content in a non-member operation mode and a secure device to be placed in the terminal body, wherein the method includes a selection step of selecting one of the first application program and the second application program in accordance with the setting result.

For at least similar reasons as discussed above with respect to claim 1, Applicants respectfully submit that the cited prior art references do not teach, suggest or otherwise render obvious the above-noted features recited in claim 12. Accordingly, Applicants submit that claim

12 is patentable over the cited prior art, an indication of which is kindly requested. Claim 13 depends from claim 12 and is therefore considered patentable at least by virtue of its dependency.

## **II. Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may best be resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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